

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:24-CV-367-D

GARY GAYHART,

)

Plaintiff,

)

v.

)

PEPSI BOTTLING VENTURES, LLC

)

Defendant.

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ORDER

The court has reviewed plaintiff's amended complaint [D.E. 15] and defendant's motion to dismiss for failure to state a claim [D.E. 17] under the governing standard. See Fed. R. Civ. P. 12(b)(6); Ashcroft v. Iqbal, 556 U.S. 662, 677–80 (2009); Bell Atl. Corp. v. Twombly, 550 U.S. 544, 554–63 (2007). The court DENIES defendant's motion to dismiss [D.E. 17]. The court DENIES AS MOOT defendant's motion to dismiss plaintiff's complaint [D.E. 10]. Whether plaintiff's claims of disability discrimination, failure to accommodate, and retaliation under the Americans with Disabilities Act and his two claims under North Carolina law will survive a motion for summary judgment is an issue for another day. The amended complaint does not contain a hostile work environment claim. Cf. [D.E. 23] 17–19.

SO ORDERED. This 1 day of April, 2025.

J. C. Dever
JAMES C. DEVER III
United States District Judge